

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Court No.3

Criminal Misc. Application No. 970/2001
Old No. 1451 of 1987

K.C. Sharma and others ...Petitioners.

Vs.

Vivek Punwani ...Respondent.

Hon'ble Irshad Hussain, J.

Heard Sri Alok Singh learned counsel for the petitioners and Sri Anurag Bisaria learned counsel for the respondent.

2- This is a petition under section 482 of the Code of Criminal Procedure for quashing of the criminal proceedings of criminal case No. 662/1986 and the summoning order passed thereon 1-8-1986. Having heard the learned counsel there appear to be no need to summon any further record as the facts are glaring enough from the written complaint Annexure-'A' itself. A bare reading of the written complaint make it writ large that the dispute between the parties was purely of civil nature. The petitioners are alleged to have stayed in Royal hotel, Nainital when their film unit was in Nainital and they did not clear the dues despite repeated demands. Considering this broad feature of the case there remain no doubt that the learned Magistrate has passed the summoning order without considering the merits of the case ignoring the bare allegations that no criminal liability was attracted against the petitioners and they could have been proceeded with for recovery of the dues, if any, through a civil proceeding.

3- In view of above the impugned order dated 1-8-1986 can not legally be sustained and in fact it is nothing but abuse of the process of the court. The summoning order is set aside and the proceedings of the criminal complaint 662/1986 pending before the C.J.M., Nainital are quashed.

(Irshad Hussain, J.)

Dated: 18-11-2003

ISB